IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff, CR No. 15-3051 JB

vs.

**RICHMOND SAM**,

Defendant.

**UNITED STATES' UNOPPOSED MOTION FOR ORDER AUTHORIZING DISPOSITION OF EVIDENCE**

The United States respectfully moves the Court for an order authorizing the Federal Bureau of Investigation (the "FBI") to dispose of the following firearm, ammunition, and related evidence which has been maintained by the FBI in this criminal case:

- **Norinco AK-47 7.62 x 39mm caliber rifle, bearing serial number 9305253;**
- **One (1) ammunition drum detached from the Norinco AK-47 rifle;**
- **One (1) live 7.62 cartridge, removed from the Norinco AK-47 rifle chamber;**
- **Twelve (12) expended 7.62 x 39 mm caliber casings;**
- **Three (3) expended .22 caliber casings; and**
- **One (1) expended casing of unknown caliber.**

and as grounds therefore states:

1. On or about July 30, 2015, Defendant shot and killed J.H. during an altercation outside Defendant's residence located within the exterior boundaries of the Navajo Indian Reservation in San Juan County. Following execution of a warrant at the residence, law

enforcement located and seized the subject AK-47 rifle and attached ammunition drum which were found wrapped in a blanket and placed in a bush. The rifle contained one (1) live 7.62 cartridge. Also located outside the residence were twelve (12) expended 7.62 x 39 mm caliber casings, three (3) expended .22 caliber casings; and one (1) expended casing of unknown caliber. Defendant directed agents to the AK-47 rifle and identified it as the weapon he used to shoot J.H.

2. On August 5, 2015, Defendant was charged with second degree murder, being a felon in possession of a firearm, and using, carrying, possessing, and discharging a firearm during and in relation to and in furtherance of a crime of violence. Doc. 15. On December 31, 2015, Defendant entered a guilty plea to an information charging him with involuntary manslaughter. Docs. 53, 50. The plea agreement authorizes forfeiture of the Norinco, AK-47 rifle. Doc. 53 at 6. On March 31, 2016, District Judge James O. Browning sentenced the defendant to 15 months of imprisonment, to be followed by three years of supervised release. Doc. 66.

3. The subject AK-47 rifle, ammunition drum, and ammunition used in the murder have all been maintained at the Albuquerque FBI Field Office as evidence in this case. As the charges against the Defendant are now resolved and he has been released from custody, the FBI now wishes to dispose of this evidence.

4. Counsel for the defendant, Robert Gorence, does not oppose this motion.

WHEREFORE, the United States respectfully requests entry of an order authorizing the Federal Bureau of Investigation to dispose of the aforementioned Norinco AK-47 rifle, ammunition drum, and ammunition.

Respectfully submitted,

JAMES D. TIERNEY
Acting United States Attorney

*Electronically Filed on 3/13/2017*
KYLE T. NAYBACK
Supervisory Assistant United States Attorney
Indian Country Crimes Section

I HEREBY CERTIFY that on March 13, 2017, I filed the foregoing pleading electronically through the CM/ECF system, which caused counsel of record to be served by electronic means, as more fully reflected in the Notice of Electronic Filing.

*Electronically filed on 3/13/2017*
KYLE T. NAYBACK
Supervisory Assistant United States Attorney
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